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SUBJECT: EL SALVADOR: CBERA REPORT INPUT

¶1. Economic Review: After more than a decade of systematic economic reforms, crowned in January 2001 with the introduction of the U.S. dollar as full legal tender, EL Salvador has been described as having the most open trade and investment environment in Central America; in Latin America, only Chile is more open. The country enjoys low inflation, low interest rates, and an investment grade country risk rating. After experiencing low rates of economic growth during the period 1997-2004, the economy has begun to recover, experiencing economic growth of 3.1 percent in 2005 and 4.2 percent in 2006. As a result, per capita income increased by 2.5 percent in 2006. The Salvadoran government views the expansion of trade and investment as essential to the recovery of private sector led growth.

¶2. Since taking office in March 2004, President Elias Antonio Saca Gonzalez's government has continued an economic reform strategy fundamentally based on free market principles and fiscal responsibility. In a break from previous administrations, President Saca has also proposed government programs to address poverty and income inequality and has implemented sectoral investment incentives such as a Tourism Law and a Services Law. The Services law will provide fiscal incentives for the export of services that are not banned by the WTO and that are similar to the Free Trade Zones Law. President Saca has also implemented several programs to support the development of small and medium business.

¶3. El Salvador's Investment Law does not require investors to export specific amounts, transfer technology, incorporate set levels of local content, or fulfill other performance criteria.

¶4. Foreign investors and domestic firms are eligible for the same export incentives. Exports of goods and services pay zero value added tax. Some government contracting for large civil engineering projects requires local content; however, the funds for many of these projects are provided by multilateral development banks whose procurement practices allow U.S. companies to participate.

¶5. The Government of El Salvador also understands the role of trade and investment in improving the economic conditions of its people. PROESA, the National Investment Promotion Agency of El Salvador has been sending trade missions to the United States on "CAFTA-DR Tours" to create business contacts and to attract business and investment to El Salvador. The recently established Ministry of Tourism is doing similar tours to promote tourism in El Salvador., Salvadoran Vice President Ana Vilma de Escobar has been particularly active in promoting foreign direct investment as part of her official functions.

¶6. Commitment to WTO and FTAA: The government of El Salvador is committed to free trade and is party to a number of free trade agreements including CAFTA-DR, and agreements with Mexico, Chile, the Dominican Republic, Panama, Colombia, and Taiwan. In October 2007, El Salvador and its Central American counterparts started

negotiating an Association Agreement with the European Union, which will include a political dialogue and cooperation in numerous areas including trade and investment. El Salvador has demonstrated a commitment to fulfill its obligations as a WTO member and plays an important role as a regional leader on trade issues. El Salvador had also been a strong supporter of the FTAA.

¶7. Protection of Intellectual Property: El Salvador has continued to make progress in protecting intellectual property rights and has taken steps to further implement its obligations under the TRIPS Agreement. The 1993 Intellectual Property Promotion and Protection Law and the Salvadoran penal code protect intellectual property rights. Criminal enforcement of intellectual property protection laws has greatly improved in recent years, although there continues to be a very high rate of piracy especially for items such as software. Acting on the basis of complaints, the Attorney General's office conducts raids against distributors and manufacturers of pirated CDs, cassettes, clothes, and computer software. The Attorney General's office can also take enforcement action at the border against pirated or counterfeit goods without waiting for a formal complaint. However, using the criminal and mercantile courts to seek redress of a violation of intellectual property can be a slow and frustrating process. In compliance with CAFTA-DR, El Salvador is in the process of implementing acceptable standards for test data exclusivity, which will be protected for a period of at least five years for pharmaceutical product test data and at least ten years for agricultural chemical product test data.

¶8. El Salvador has signed and implemented a number of international treaties protecting intellectual property rights. CAFTA-DR strengthened EL Salvador's IPR protection regime to conform with, and in many areas exceed, WTO norms and has criminalize end-user piracy, providing a strong deterrence against piracy and counterfeiting.

¶9. In CAFTA-DR, EL Salvador also agreed to authorize the seizure, forfeiture, and destruction of counterfeit and pirated goods and the equipment used to produce them. In addition, under CAFTA-DR, EL Salvador has agreed to mandate both statutory and actual damages for copyright infringement and trademark piracy.

¶10. Provision of Internationally Recognized Worker Rights: The Constitution provides for the rights of workers and employers to form unions or associations, and workers and employers exercise these rights in practice; however, there have been some problems. There have been repeated complaints by workers, in some cases supported by the ILO Committee on Freedom of Association (CFA), that the Government impeded workers from exercising their right of association. In connection with the implementation of CAFTA-DR, El Salvador is working to address these concerns.

¶11. The Constitution and the Labor Code provide for collective bargaining rights for employees in the private sector and for certain categories of workers in autonomous government agencies, such as utilities and the port authority.

¶12. Salvadoran law also provides for the right to strike, and workers exercise this right. Public workers who provide vital community services are not allowed to strike legally, although the Government has generally treated strikes called by public employee associations as legitimate.

¶13. The Constitution prohibits forced or compulsory labor, including by children, except in the case of natural catastrophe and other instances specified by law, and the Government has generally enforced this provision. The Constitution also prohibits the employment of children under the age of 14, although children 12 to 14 can be authorized to do light work as long as it does not harm their health and development or interfere with their education. In addition, the law prohibits those under the age of 18 from working in occupations considered hazardous.

¶14. The Ministry of Labor is responsible for enforcing child labor laws. In general, labor enforcement is weak due to lack of resources. As a result, it is difficult for inspectors to monitor practices in the large informal sector. Labor inspectors are generally focused on the formal sector, where child labor is rare. The MOL received few complaints of violations of child labor laws,

because many citizens perceived child labor as an essential component of family income rather than a human rights violation. Orphans and children from poor families frequently work in the informal sector for their own or family survival as street vendors and general laborers in small businesses. Children in these circumstances often do not complete schooling. The Government has instituted incentive programs, such as Red Solidaria, for low income families to keep their children in school.

¶15. The law sets a maximum normal workweek of 44 hours, limits the workweek to six days and requires bonus pay for overtime (although this requirement is frequently not met). Full-time employees are to be paid for an eight-hour day of rest in addition to the 44-hour normal workweek and receive an average of one month's wage a year in required bonuses plus two weeks of paid vacation. For youths between 14 and 16 years of age, the law limits the workday to six hours (plus a maximum of two hours of overtime) and sets a maximum normal workweek for youths at 34 hours.

¶16. Commitments to Eliminate the Worst Forms of Child Labor: EL Salvador ratified ILO Convention 138 on the minimum age for employment in 1996, and Convention 182 on the Worst Forms of Child Labor, in 2000. According to the ILO, from October 2003 to March 2005, 47,719 children received medical, psychological, recreational, vocational, nutritional, and educational attention under ILO-IPEC programs. These activities have helped keep children out of the labor force. The ILO-IPEC, in cooperation with the Ministry of Labor, has also provided 4,028 parents with training in occupational skills, literacy, productivity, and medical attention, among other areas.

¶17. For the period of 1999 through August 2005, the ILO reported that 6,271 children have been withdrawn from child labor. During the same period, the ILO reported that they, in cooperation with the Ministry of Labor, have prevented 14,134 at-risk children from performing labor activities.

¶18. Counter-Narcotics Cooperation: The President has not identified El Salvador as a major drug transit or major illicit drug producing country under the provision of the FRAA. In addition, the Government of El Salvador has acted to meet the objectives of the 1988 UN Drug Convention and interdict narcotics entering its territory. El Salvador also hosts a Cooperative Security Location, used for counter-narcotics surveillance flight operations.

¶19. Implementation of the Inter-American Convention against Corruption: El Salvador, which ratified the IACAC in 1998, followed Costa Rica as the Central American region's least-corrupt nation in Transparency International's 2007 Corruption Perceptions Index, ranking 67th of the 180 countries surveyed. Soliciting, offering, or accepting a bribe is a criminal act in El Salvador. A Court of Accounts, established by the Constitution, investigates allegations against public officials and entities and, when necessary, passes such cases to the Attorney General for prosecution. The Anticorruption and Complex Crimes Unit of the Attorney General's Office handles cases involving corruption by public officials and administrators.

¶20. The Legislative Assembly approved a Government Ethics Law in 2006. The law establishes an Office of Government Ethics that handles complains from any citizen against corrupt civil servants. Once a complaint has been filed, an Ethics Court follows its administrative procedures to investigate the complaint and imposes sanctions for the violations against the law. The Ethics Court includes representatives of the Legislative Assembly, the President of the Republic, the Supreme Court of Justice, the Comptroller, and one member elected by the heads of the Public Ministry. Sanctions include written reprimands, fines no lower than ten percent and no higher than ten times the offender's monthly salary, and dismissal after a third infraction to the law. If the infraction deserves a penal sanction, the civil servant will be suspended and the case will pass to the General Attorney's Office.

¶21. When it occurs, corruption is usually confined to lower levels of government. However, a recent corruption scandal involved senior officials of the Salvadoran water authority, including its former president. There also have been credible complaints about judicial corruption. An active free press reports on corruption issues.

¶22. Transparency in Government Procurement: The laws and regulations of El Salvador are relatively transparent and generally foster competition. Bureaucratic procedures have improved in recent years and are streamlined for foreign investors. In late 2004, the government passed a Competition Law. Overall, the Government of El Salvador's government procurement practices are transparent and nondiscriminatory. Bids for large projects are listed in newspapers or distributed to the international community. However, short tender deadlines prevent meaningful international competition in many cases. Smaller tenders are listed on individual Ministry websites or are available from ministry procurement offices.

¶23. Nationalization/Expropriation: Pursuant to El Salvador's 1983 Constitution, the government may expropriate private property for reasons of public utility or social interest, and indemnification can take place either before or after the fact. There are no recent cases of expropriation. However, several longstanding commercial disputes involving U.S. companies are pending resolution in the court system.

¶24. Reverse Preferences: El Salvador has lowered or eliminated tariff barriers on many commodities, and U.S. companies have as much if not more access to markets in El Salvador than other nations due to geographical proximity. El Salvador does not provide preferential treatment to products of any other developed country to the detriment of U.S. commerce.

¶25. Contribution to Regional Revitalization: The open trade policies of El Salvador benefit the revitalization of the CBI region as a whole by providing an open market for imported products. The earthquakes of 2001 caused a slowdown in growth within El Salvador, but the country continues to be an active partner in trade with the region. El Salvador's increased regional trade is also reflected in its recent accelerated economic growth.

¶26. Extradition: The government of El Salvador signed an agreement with the United States in 1911 allowing for extradition of each other's citizens; this treaty is still in force and is regularly used.

¶27. Cooperation in Administration of the CBERA: El Salvador cooperates with the United States in administration of the CBERA, as well as with other CBERA countries.

¶28. Population: 6,980,279 (2006)

¶29. Per Capita GDP: \$2,668.4

¶30. Point of Contact for Report: Economic Officer Brent T. Christensen, ChristensenBT@state.gov, (503)-2501-2105, fax (503)-2501-2775.

¶31. A copy of this report has been sent via e-mail to WHA and USTR.